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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/584,701	06/01/2000	Irene Lin	SLA 001	5051
27765	7590	03/29/2004	EXAMINER	
NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)			CHANG, VICTOR S	
P.O. BOX 506			ART UNIT	PAPER NUMBER
MERRIFIELD, VA 22116			1771	

DATE MAILED: 03/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AC

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/584,701	LIN, IRENE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Victor S Chang	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/11/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

1. In view of the Information Disclosure Statement (IDS, PTO-1449) filed on 8/11/2003, PROSECUTION IS HEREBY REOPENED. A rebuttal to the argument forwarded by Applicant during an interview on 8/13/2003 is set forth below.

In particular, it is noted that the IDS, submitted on 8/11/2003, crossed the date of interview on 8/13/2003, and also crossed the Notice of Allowance, which is completed on 8/14/2003 and mailed 8/28/2003. Since the submission is in compliance with the provisions of 37 CFR 1.97, the information disclosure statement is being considered by the Examiner.

To avoid abandonment of the application, applicant must file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final).

2. The indicated allowability of claims 1-18, mailed 8/28/2003, is withdrawn in view of the newly discovered reference JP 11-079260 in a letter to Applicant under a separate cover. Rejections based on the newly cited reference follow.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Rebuttal to Argument***

4. Claims 1-4 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaikema et al. (US 4689936) in view of JP 11-079260, substantially for the

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reasons set forth in sections 7 and 6 of Paper No. 20, together with the following additional observations.

It is noted that the newly filed IDS (8/11/2003) cites a reference JP 11-079260, which is directed to a packaging material being capable of release internal pressure. Fig. 1 of JP '260 shows that the packaging material comprises a heat-sealing layer 3 laminated on a heat-resistant layer 2. An internal pressure releasing port 4 is formed through the thickness of the heat-resistant layer, i.e., the port 4 has one end at the outer face of the base layer 2, and the other end reaches the heat-sealing layer 3 (paragraph 0015). Additionally, Figs. 1 and 2 show that various shapes of port opening can be formed in a single-layered base layer 2.

The Examiner notes that during the interview on 8/13/2003 Applicant failed to bring the newly filed IDS to the Examiner's attention. Further, Applicant argued that the relied upon prior art reference Chalis (US 5672406), which is cited as evidentiary support for various known shapes of port (or opening), is not combinable with the primary reference by Gaikema, because Chalis requires a multilayered film, and at least a two-layer film, of two polymers with fairly widely different temperature coefficients of expansion to open the aperture as the temperature changes, whereas Gaikema teaches a single layered film. However, in view of the newly cited reference JP '260 in the IDS filed 8/11/2003, the aforementioned argument is clearly moot and the Notice of Allowance (which is allowed based on the reasoning that the instantly claimed shapes of the port openings are unobvious) must be vacated, because JP '260 expressly teaches that the vent-port containing material can be formed single-layered base layer

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2, as set forth above. As such, the Examiner repeats (see Paper No. 20, page 4) that it is known art that various openings, including the ones in which the edges are in contact, can be used for increased gas permeability when the temperature increases, as taught by JP '260, and it would have been obvious to one skilled in the art to modify Gaikema's vent openings with various openings of JP '260, motivated by the desire to accommodate various venting requirements.

5. Claims 5, 6, 14, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaikema et al. (US 4689936), and further in view of Mueller et al. (US 4404241), substantially for the reasons set forth in section 7 of Paper No. 20, together with the additional observations as set forth above as evidenced by newly submitted JP 11-079260.

6. Claims 7 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaikema et al. (US 4689936), and further in view of Lesser (US 5012061), substantially for the reasons set forth in sections 10 of Paper No. 17, together with the additional observations as set forth above as evidenced by newly submitted JP 11-079260.

7. Claims 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaikema et al. (US 4689936), and further in view of Inoue (US 4769175), substantially for the reasons set forth in sections 11 of Paper No. 17, together with the additional observations as set forth above as evidenced by newly submitted JP 11-079260.

8. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 8/11/2003 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS**

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**MADE FINAL.** See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700